

Remarks

This is a response to the final office action mailed September 17, 2003. Claims 1-23 were filed in this application. In the final office action, the Examiner rejects claims 1, 3-7, 11-12 and 15-18 under 35 U.S.C. §103(a) as being unpatentable over PCT Publication No. 98/50258 to Gal et al. (hereinafter "Gal") in view of PCT Publication No. 94/08120 to Lu et al. (hereinafter "Lu") and U.S. Patent No. 4,471,274, issued to Ross et al. (hereinafter "Ross").

The Examiner further rejects claims 2, 8-10, 13-14 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu and Ross and further in view of U.S. Patent No. 6,157,024, issued to Chapdelaine et al. (hereinafter "Chapdelaine"). Finally, the Examiner rejects claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu, Ross, Chapdelaine and further in view of U.S. Patent No. 5,142,152, issued to Boiucaner (hereinafter "Boiucaner"). Reconsideration and reexamination of the application is respectfully requested.

A. Rejections Under 35 U.S.C. § 103(a)

The Examiner rejects claims 1, 3-7, 11-12 and 15-18 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu and Ross. The combination of references applied by the Examiner do not obviate Applicant's claims. As such, Applicant respectfully request reconsideration of the rejection of claims as presented in this response.

In order to establish obviousness, there must be some suggestion or motivation to combine these references. No suggestion or motivation to combine is found in these references. The mere fact that references can be combined or modified does not render the result and combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Even if all aspects of the claimed invention are individually known in the art, the existence of these elements is not sufficient to establish obviousness without some objective reason to combine the teaching of the references.

Ex Parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000).

Although the Examiner states that it would be obvious to combine Gal with Lu and Ross, such a combination would be unnecessary absent improper hindsight. “It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.” *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 448 (Fed. Cir. 1986), quoting *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965). Accordingly, Applicant respectfully assert that the only motivation or suggestion to combine these references is Applicants’ disclosure.

Referring to the rejected claims, particularly independent claims 1 and 12, the Gal/Lu/Ross combination fails to teach or suggest Applicant’s claimed invention. Gal discloses a sensor system monitoring an area **proximate** to a door entry area (“sensing the presence of an object within a predetermined volume 22”) or air bag deployment area. (Gal, p.7, ll. 4-5). Gal does not teach nor suggest mounting the sensor system **within** the door entry area to detect an actual obstruction. Further, as the Examiner indicates, Gal fails to disclose a control module for monitoring and processing signal interrupts nor does it contemplate generation of a motor control signal to stop and reverse travel of the door upon detection of an obstruction.

The Examiner claims that it would be obvious to one of ordinary skill in the art to have the motor reversing control of Ross combined with Gal “since one would be motivated to have a door open if one was trapped between the door and the body of the car and for safety as **implied** by Ross (col.1, l.15-20).” (emphasis added) However, Ross clearly teaches away from both Applicant’s claimed invention and the Gal and Lu references. Ross **explicitly** states that the motor drive shaft includes a tachometer which monitors the speed of the shaft rotation. If a reduction in speed is detected, the system generates a motor control signal to stop the travel of the door. (col. 2, l. 8-17). Ross clearly uses a mechanical contact sensor, not an optoelectronic

sensor arrangement as claimed by Applicant, to generate the motor control signal. One of ordinary skill in the art would not be motivated to combine Ross with either Gal and Lu to make Applicant's claimed invention.

The proposed combination of Gal, Lu and Ross would change the principle of operation of the combined invention and is not sufficient to render Applicant's claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Lu discloses a window obstruction detection system for a vehicle. Neither the Gal nor Ross references would suggest to one of ordinary skill in the art to incorporate the Lu signal/transmitter and control module arrangement with Gal's proximity detection and/or Ross's motor revolution detection systems to create Applicant's invention.

It is abundantly clear that the Examiner attempts to combine various technologies to reject Applicant's claimed invention while ignoring the lack of unity between technologies. The Examiner fails to show how one of ordinary skill in the art would combine the window obstruction detection system of Lu with the mechanical motor speed detection sensor of Ross and the proximity detector sensors in Gal to obviate Applicant's claimed invention. There is no support for the Examiner's contention that such a combination would exist except for the Examiner's baseless argument that each reference **implies** such a combination. Since such a combination does not, and would not, exist, independent claims 1 and 12 are non-obvious over Gal in view of Lu and Ross.

Further, Applicant respectfully suggests that dependent claims 2-11 and 13-18 are also in condition for allowance as being dependent upon allowable subject matter presented in claims 1 and 12. Referring to claims 4-7 and 15-17, Applicant respectfully disagrees with the Examiner's statement that the placement of transmitters and sensors on the inner door jambs is an obvious rearrangement of parts. Gal requires that the sensors be placed **external** of the door and door jamb in order to detect the presence of a person in **proximity** to, not within, the door entry area. Gal would not work using the Lu sensor arrangement. Thus, claims 4-7 and 15-17

are non-obvious over the combination of references for at least the reasons stated above and with reference to claims 1 and 12.

The Examiner further rejects claims 2, 8-10, 13-14 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu and Ross and further in view of Chapdelaine. Applicant respectfully asserts that claims 2, 8-10, 13 and 14 depend from allowable subject matter in independent claims 1 and 12 and therefore are nonobvious over the Gal/Lu/Ross/Chapdelaine combination.

With respect to independent method claim 19, the Examiner's assertion of the Gal/Lu/Ross combination with Chapdelaine is flawed. The Examiner may not pick and choose elements from various prior art references and combine them to reject a claim under obviousness without motivation or suggestion to combine. Gal, Lu and Ross, as applied to claims 1 and 12, and Chapdelaine, as applied to claim 19, alone or in combination, fail to suggest the combination of selected features or any modifications thereto that are compatible with the claim scope. These three references do not recognize the problem addressed by the present invention, namely, the non-contact detection of obstructions between a vehicle door and door frame and the control and positioning of the door upon detection of such obstructions. Once again, Applicants respectfully assert that the only motivation to combine these references is Applicants' disclosure.

The Examiner asserts that it would be obvious for one to combine the Chapdelaine reference with Gal/Lu/Ross to provide a system only upon activation of the obstruction detection system. Chapdelaine, similar to Lu, discloses a **window** and **window frame** monitoring system for detecting the presence of an obstruction between the window and window frame. Although Chapdelaine does disclose applying reflective materials adjacent the window frame opening to reflect infrared radiation emitted from a light emitting diode, the addition of Chapdelaine to the Gal/Lu/Ross combination does not obviate Applicant's claimed invention. Applicant respectfully asserts that a thorough reading of each of the Gal, Lu, Ross and Chapdelaine, both individually and in combination, would not motivate one of ordinary skill in the art to combine these references to render Applicant's claimed invention. As such, Applicant respectfully requests

reconsideration of the rejection of claim 1-18 discussed above, as well as independent claim 19 and claims 20-21 depending therefrom.

Finally, the Examiner rejects claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu, Ross, Chapdelaine and further in view of Boiucaner. Since claims 22 and 23 depend from independent claim 19, Applicant believes these claims are allowable for at least the reasons stated above with reference to independent claim 19 above.

B. Conclusion

Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is requested to telephone the undersigned at his convenience.

Respectfully submitted,

Robert H. Wilson

By



Matthew R. Mowers
Reg. No. 44,956
Attorney/Agent for Applicant

Date: November 17, 2003

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351